REMARKS

Summary of the Office Action

Claims 1-40 stand rejected under 35 U.S.C. 102(e), as allegedly anticipated by, or in the alternative, under 35 U.S.C. 103(a), as allegedly unpatentable over, Kamitani et al. (US 2002/0098288).

Discussion

Applicants respectfully traverse the rejections for the following reasons. Applicants respectfully submit that the Office Action refers to Fig. 1 of the cited reference and makes erroneous calculations, which cannot support the rejections. The drawing in Fig. 1 of Kamitani et al. is a schematic presentation of the drying and heating devices. The Office Action, however, assumes that the drawing is in scale. Applicants respectfully submit that this assumption is not correct. The following calculations illustrate this point.

The Office Action assumes that the drawing is in scale and calculates a conveying speed 5 mm/s = 0.3 m/min based on the dimensions of the heating device 50. This, however, is a backward reasoning. The drawing, on the contrary, is not in scale and is not drawn as to comply with a conveying speed: indeed, the real conveying speed of the plates is disclosed in Table 1: the conveying speed ranges from 10 m/min to 25 m/min, wherein *only* the 25 m/min speed is combined with the infrared heating device 50. As the conveying speed calculated on the basis of the drawing dimensions *and* the conveying speed disclosed in the prior art document are completely different (0.3 m/min versus the disclosed 25 m/min), it is clearly demonstrated that the drawing is not in scale. The further calculations of the Office Action (for example that the printing plate is more than 1s above 150°C) are thus not meaningful. It is to be noted that for a person skilled in the art, a conveying speed of only 0.3 m/min is not a realistic speed. Moreover, it is explained in paragraphs [0088] to [0089] of Kamitani et al. that the conveying speed is not constant, that the infrared heating device is not used alone but in combination with the hot air drying device, and that a conveying speed of 25 m/min could be maintained.

For the same reasons, the further calculations of cooling rate based on the dimension of the drawing are neither meaningful and would not be done by a skilled person.

In conclusion, the assumption of the Office Action that the drawing is in scale and that the conveying speed is constant is unfounded. The calculations of the Office Action based on the dimensions of the drawing are not correct. The conclusion of the Office Action that the printing plate is longer than 1s above 150°C is thus not correct. The limitations of the present claim 1 are therefore not anticipated and are neither obvious over the cited prior art document. Claims 2-40 depend from claim 1 and are consequently neither anticipated by, or in the alternative obvious over Kamitani et al.

The Office Action also argues that if the drawing is not in scale, then the calculated cooling rate and duration time of the printing support above 150 °C would not be far from the above calculated numbers. Applicants respectfully disagree. As the Office Action has made a serious error in the conveying speed (calculated 0.3 m/min vs the actual 25 m/min), the argument that the actual cooling rate and duration time of the printing support would be "close" as the Office Action contends is meritless and must fall.

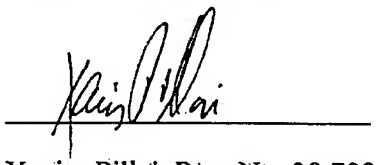
The Office Action argues inherency. However, applicants respectfully submit, the Office Action failed to make a *prima facie* case for inherency. Inherency requires that the prior art "necessarily" discloses the parameters that the Office Action is attempting to employ against the applicants. Inherency cannot be justified by mere possibilities or probabilities. See the standard established by the Federal Circuit: "Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient." *Continental Can Co., USA, Inc. v. Monsanto Co.*, 20 USPQ2d 1746, 1749 (Fed. Cir. 1991). The conclusion that the undisclosed parameter is present in the cited art must be inescapable for a skilled person. To support an anticipation rejection based on inherency, an examiner must provide factual and technical grounds establishing that the inherent feature necessarily flows from the teachings of the prior art. See *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Int. 1990). See also *In re Oelrich*, 212 USPQ 323, 326 (CCPA 1981) (holding that inherency must flow as a necessary conclusion from the prior art, not simply a possible one). In this case, the Office Action failed to meet that burden.

In view of all of the foregoing, the anticipation and obviousness rejections are erroneous and should be removed.

Conclusion

A favorable decision is solicited. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



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